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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/834,528 ✓ | 04/12/2001 | Frano Luburic | ROPAK-P2712 | 4027 |
| 21259 | 7590 | 10/08/2003 | EXAMINER | |
| J MARK HOLLAND & ASSOCIATES 3 CIVIC PLAZA SUITE 210 NEWPORT BEACH, CA 92660 | | | NGO, LIEN M | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3727 | | |

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/834,528 | LUBURIC, FRANO |
| | Examiner | Art Unit |
| | LIEN TM NGO | 3727 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 July 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) 6-13 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5 and 14-18 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/10/03 has been entered.
2. Applicant's election of Species I, figs. 2-5, claims 1-5 and 14-18, in Paper No. 15 is acknowledged.

However, applicant requests clarification of the detailed indication of each of the disclosed species.

In MPEP 809.02 (a) states for Species Election Requirement that each disclosed Species is clearly identified as the Species of figures.

As stated in the Election/Restriction (paper No.13), the application contains claims directed two patentably distinct species of the claimed invention: Species I, the invention embody as identified in figs. 2-5; and Species II, the invention embodiment as identified in figs. 6-9.

Therefore, the requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the V-shaped channel

in claims 4 and 14, and V-shaped cross section in claim 16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 4 is objected to because of the following informalities: in claim 4, lines 5, "said assembly" should be –the assembly--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4, 14-17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regard to claim 4 and 14-17, the V-shaped channel (claims 4 and 14) and V-shaped cross section (claim 16) are not described in the specification.

In regard to claim 18, the wider region spaced away from the uppermost portion is not described in the specification for the elected Species I, figs. 2-5.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 4, 5 and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Von Holdt, Jr. (6,619,498).

In regard to claim 1, Von Holdt discloses, in fig. 8, an apparatus comprising a container 74 having an upper edge constituting in cross section a generally vertical wedge member 116 which is tapered, and a lid 50 having a correspondingly-shaped wedge receiving channel at its periphery, said channel including an outer skirt 112 having a lower portion 120 spaced outwardly from said container upper edge, and an inner skirt 104 having a lower portion spaced inwardly from said container upper edge, and corresponding tongue and groove members 114 on said lid and said container to interfit with each other within the channel, said tongue member 114 having a cross sectional axis that is sloped outwardly with respect to the center of the container.

In regard to claims 4, 5 and 14-18, the lid channel is a generally inverted V-shape, the assembly between the lid, the container not including rotating threaded

engagement, and the inner contact surface of the channel extending toward the bottom of the container at least as far as the outer contact surface of the channel.

9. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Obrist et al. (4,252,242).

Obrist et al. disclose, in fig.1, an apparatus comprising a container 1 having an upper edge; a lid 2 having a channel configured to abut and form a liquid-tight seal with the container upper edge, in which the container upper edge comprises a thicker tapered portion 9; the channel including an outer skirt 3 having annular shoulder formed therein and the shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid.

Response to Arguments

10. Applicant's arguments with respect to claims 1-5 and 14-18 have been considered but are moot in view of the new ground(s) of rejection.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Van Den Brink, Diesterbeck and Daenen teach lids having shoulder portions positioned between engaging detents and uppermost portion of the lid.

Jiradejnunt et al. teaches a liquid-tight seal for a container.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

**Lien Ngo

October 7, 2003*

A handwritten signature in black ink, appearing to read "Lien Ngo".